

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re: BKY 19-40658  
Chapter 7  
Scheherazade, Inc.,  
Debtor.

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**NOTICE OF HEARING AND MOTION OBJECTING TO CLAIM OF  
HARVEY WEISS**

TO: The claimant and other entities specified in Local Rules 9013-3(a) and 3007-1:

1. Nauni Manty, the chapter 7 trustee of the bankruptcy estate of the debtor, moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion on **Wednesday, May 6, 2020, at 9:30 a.m.**, before the Honorable Kathleen H. Sanberg, in Courtroom No. 8 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota 55415.

3. Any response to this motion must be filed and served not later than **Friday, May 1, 2020**, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. The petition commencing this chapter 7 case was filed on March 10, 2019. This proceeding is a core proceeding. This case is now pending before this court.

5. This motion arises under 11 U.S.C. §§ 502, Fed. R. Bankr. P. 3007, 9013 and 9014 and Local Rules 3007-1, 9006-1, 9013-1 and 9013-3.

6. Harvey Weiss filed an unsecured claim of \$600. *See* Claim No. 70. A copy of the claim is attached as Exhibit A. The claim relates to one piece of jewelry sold on consignment by the debtor. The jewelry was sold pre-petition pursuant to a Consignment Merchandise agreement between the debtor and Mr. Weiss.

7. Pursuant to the agreement, the debtor sold the jewelry for \$600, of which \$360 was to be paid to Mr. Weiss.

8. The trustee objects to the claim because it seeks the gross sale value of the jewelry rather than the net of \$360 owed to Mr. Weiss.

9. The trustee requests that Claim No. 70 be reduced to \$360, the net value of the proceeds due to Mr. Weiss under the agreement with the debtor.

**WHEREFORE**, the trustee requests that the objection to the claim of Mr. Weiss be sustained and the claim be reduced to \$360.

MANTY & ASSOCIATES, P.A.

Dated: April 2, 2020

/e/ Mary F. Sieling

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Nauni Manty (#230352)  
Mary F. Sieling (#389893)  
401 Second Avenue North, Suite 400  
Minneapolis, MN 55401  
Phone: (612) 465-0990  
Email: [mary@mantylaw.com](mailto:mary@mantylaw.com)

*Attorneys for the Chapter 7 Trustee*

Debtor 1

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Debtor 2  
(Spouse, if filing)

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United States Bankruptcy Court for the: District of Minn.

Case number 19-40658

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U.S. BANKRUPTCY COURT  
MINNEAPOLIS, MN 04/16

## Official Form 410

## Proof of Claim

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

## Part 1: Identify the Claim

## 1. Who is the current creditor?

Harvey F. Weiss

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor

## 2. Has this claim been acquired from someone else?

☐ No☐ Yes. From whom?

## 3. Where should notices and payments to the creditor be sent?

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Harvey F. Weiss

Name

11988 Pendleton Court

Number

Street

Eden Prairie MN 55347

City

State

ZIP Code

Contact phone 763-439-4447

Contact email harveyw137@gmail.com

Where should payments to the creditor be sent? (if different)

Name

Number

Street

City

State

ZIP Code

Contact phone

Contact email

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

## 4. Does this claim amend one already filed?

☒ No☐ Yes. Claim number on court claims registry (if known)

Filed on

MM / DD / YYYY

## 5. Do you know if anyone else has filed a proof of claim for this claim?

☒ No☐ Yes. Who made the earlier filing?

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 600<sup>00</sup> / 320. Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.

9. Is all or part of the claim secured? ☐ No  
☐ Yes. The claim is secured by a lien on property.

**Nature of property:**

☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: 1937 Ham. L. Ton Pocket Watch

**Basis for perfection:** \_\_\_\_\_

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

**Value of property:** \$ 600<sup>00</sup> / 320

**Amount of the claim that is secured:** \$ 0

**Amount of the claim that is unsecured:** \$ 600<sup>00</sup> / 320 (The sum of the secured and unsecured amounts should match the amount in line 7.)

**Amount necessary to cure any default as of the date of the petition:** \$ 600<sup>00</sup> / 320

**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %

☐ Fixed

☐ Variable

10. Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ \_\_\_\_\_

☐ Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ \_\_\_\_\_

☒ Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ 600/320

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ \_\_\_\_\_

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ \_\_\_\_\_

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 4/25/19  
MM / DD / YYYY

Harvey Weiss  
Signature

Print the name of the person who is completing and signing this claim:

Name HARVEY F. Weiss  
First name Middle name Last name

Title \_\_\_\_\_

Company \_\_\_\_\_

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 11988 Pendleton Court  
Number Street

Eden Prairie MN 55347  
City State ZIP Code

Contact phone 763-439-4447 Email harveyw37@gmail.com

Consignor Information:

Name: Harvey Weiss Phone(s): 763-439-4447  
Address: 2401 Wight Bay Brooklyn Park mn 55443  
Email: \_\_\_\_\_ Other Contact Information: \_\_\_\_\_

Description of Consigned Item per Consignor (One item per Form): Hamilton Pocket Watch  
Serial 2614260 21 Jewel Circa: 1936  
Model # 992-

Value of Consigned Item per Consignor (what is item insured for?): N/A

Consignment Program Terms:

1. Consignor (hereafter referred to as You) agree to leave your item on consignment for a minimum of 6 months. Also, this item will not be cross-marketed (i.e. eBay), etc. by the consignor or an agent during this time period.

2. You will receive 60% of the price for which the item is sold, & Scheherazade will receive 40%.

NOTE: Scheherazade has a 90 day waiting period between the sale of your item & payment to the consignor. Your share of the selling price will be paid approximately 91 days after the day of the sale.

3. For the item covered by this Agreement, you have authorized a Tag/Selling price of \$ 600

Customer: \$ 360 Scheherazade: \$ 240

If Scheherazade receives an offer for your item which is below the above Tag price, the lowest selling price you authorize Scheherazade to accept is \$ Call

Customer: \$ \_\_\_\_\_ Scheherazade: \$ \_\_\_\_\_

4. You agree that Scheherazade, in our sole discretion, reserves the right not to display consignment items during certain promotions, events, etc.

5. You represent, & intend for Scheherazade to rely on the representation, that on the consigned item you currently own, & during the term of the consignment you will maintain primary insurance for the item with:

N/A (Name of Ins. Co.; a Certificate of Insurance is appreciated).

Agreed & signed, this 20th day of June, 20 18 at Edina, MN 55435.

By: [Signature]  
Scheherazade Authorized Signature

Harvey Weiss  
Consignor Signature: I certify under penalty of perjury that to my knowledge the information above is true & complete, & I am the owner, or have authority of the owner, to sell or pledge the property.

Date Sold: \_\_\_/\_\_\_/\_\_\_ Receipt # \_\_\_\_\_ CAMS # \_\_\_\_\_ Price Sold For \$ \_\_\_\_\_

Returned to Consignor Date: \_\_\_/\_\_\_/\_\_\_ Consignor Signature for Return: \_\_\_\_\_

**VERIFICATION**

I, Nauri Manty, the trustee and movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information and belief.

Dated: April 2, 2020



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Nauri Manty, Trustee

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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**UNSWORN CERTIFICATE OF SERVICE**

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I declare under penalty of perjury that on April 2, 2020, I caused copies of the following documents to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the ECF participants:

**Notice of Hearing and Motion Objecting to Claim of Harvey Weiss, Verification,  
Proposed Order and this Unsworn Certificate of Service,**

I further declare that I caused copies of the foregoing documents to be mailed by first class mail, postage prepaid, to the following non-ECF participants:

Harvey Weiss  
11988 Pendleton Ct  
Eden Prairie, MN 55347

Scheherazade, Inc.  
3181 West 69<sup>th</sup> St  
Edina, MN 55435

Robert K Dakis  
Morrison Cohen, LLP  
909 Third Ave  
New York, NY 10022

David J Kozlowski  
Morrison Cohen, LLP  
909 Third Ave  
New York, NY 10022

Joseph T Moldovan  
Morrison Cohen, LLP  
909 Third Ave  
New York, NY 10022



Wells Fargo Vendor Financial Serv, LLC fka  
GE Capital Information Tech Solutions  
c/o a Ricoh USA Program fdba Ikon Financ  
PO Box 13708  
Macon, GA 31208-3708

Dated: April 2, 2020

/e/ Kevin Carnahan  
Kevin Carnahan, Legal Assistant  
Manty & Associates, P.A.  
401 Second Avenue North, Suite 400  
Minneapolis, Minnesota 55401

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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Chapter 7  
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**ORDER**

This matter came on before this court on the motion of the chapter 7 trustee objecting to the claim of Harvey Weiss, Claim No. 70. Based upon all of the files, records and proceedings herein,

**IT IS ORDERED:** that the trustee's objection to the claim of Harvey Weiss is sustained and the claim is reduced to \$360.

Dated:

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Kathleen H. Sanberg  
United States Bankruptcy Judge